



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

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FOURTH SECTION

Application no. 7123/23
M.Z. and D.Z.
against Russia and Ukraine
lodged on 17 January 2023
communicated on 9 July 2026

SUBJECT MATTER OF THE CASE

The application arises from the full-scale invasion of Ukraine by the Russian Federation that began on 24 February 2022. It concerns the rape and other forms of violence allegedly inflicted upon the first applicant and the alleged unlawful killing of her husband by Russian forces in their home in the Kyiv region on 9 March 2022 (see, for the context, *Ukraine and the Netherlands v. Russia* [GC], nos. 8019/16 and 3 others, § 67, 9 July 2025). The second applicant, the couple's son aged four at the time, was allegedly present during the events.

The applicants are represented by Ms Y. Kapalkina, a lawyer practising in Kyiv.

A. FACTS

The facts of the case, as presented by the applicants, may be summarised as follows.

1. Alleged events of 9 March 2022

On that date, the village where the family lived came under Russian occupation. Several armed men in military uniforms, speaking with a

pronounced Russian accent, broke into the family's property on numerous occasions.

During one of the break-ins, two of the men – one identifying himself as M. – ordered the second applicant out of the cellar where he had been hiding, and showed him their rifles and grenades. They also found a camouflage jacket belonging to the first applicant's husband. The first applicant, who was inside the house, heard gunshots and ran outside. She saw her husband kneeling as the two men fired shots into the air beside him, threatening to shoot the entire family. She started crying and asked them to stop, explaining that her husband had no connection to the Ukrainian army. The men then burned the camouflage jacket.

That evening, M. returned with another man. The first applicant's husband went out into the yard, while the applicants hid in the cellar. The first applicant heard a gunshot, shortly followed by the two men shouting for her to come out of the cellar. She asked where her husband was. The unidentified man replied, "*You no longer have a husband. I shot him because he was a fascist.*" Through the open door she saw her husband's body lying in the yard and started screaming.

The two men were intoxicated. M. put a gun to her head, ordered her to undress and warned her that, unless she stopped screaming and did as they told her, he would take the second applicant out of the cellar and make him see "*[her] brain [splattered] across the walls*". At gunpoint, they forced her to kneel and proceeded to rape her, engaging in simultaneous vaginal and oral penetration, while switching places. The rape lasted approximately fifteen minutes. Some twenty minutes later they returned and again and at gunpoint, forced her to undress and took turns raping her. Fifteen minutes later they returned for a third time. Armed with automatic rifles, they sexually harassed her and raped her using force.

The second applicant remained in the cellar throughout that time, with the door open. After each rape, the first applicant went down to calm him as he was crying.

After the third rape the men fell asleep in the house. The applicants managed to escape. On their way the second applicant saw his father's body but did not recognise him. He asked the first applicant whether they might also be killed like that man.

2. Relocation

On 10 March 2022 the applicants left their village and subsequently stayed in several locations across Ukraine, as confirmed by a number of witness statements and procedural documents drawn up with the participation of the first applicant.

According to a witness statement dated 30 April 2022 and the first applicant's own statements, in March 2022 they relocated abroad. The applicants state that they currently reside in Germany.

3. *Destruction of property*

The first applicant alleges that, on an unspecified date following the liberation of her village from Russian forces on 31 March 2022, she learned that her house had been destroyed.

The destruction was confirmed by a property destruction act dated 5 May 2022.

The destruction is further corroborated by photographs included in the domestic investigation case file in Ukraine, taken on 4 April 2022.

4. *Alleged psychological effects*

The first applicant alleges that she continues to suffer from ongoing trauma. The second applicant alleges that he has been experiencing recurrent nightmares and is receiving psychological help.

5. *Domestic investigations in Ukraine*

(a) Killing and rape

On 10 March 2022 a criminal investigation was opened in Ukraine under Article 438 of the Criminal Code (“*War crimes*”) into the first applicant’s allegations of killing and rape. She was granted victim status in the investigation.

A forensic medical examination was commissioned during the investigation. The resulting report, dated 21 March 2022, documented a bruise on the applicant’s shin. It did not exclude that the bruise had been sustained at the time and in the circumstances alleged by the applicant.

Subsequently, the body of the applicant’s husband was exhumed from their yard, as confirmed by a crime scene examination report dated 4 April 2022. A further forensic examination report dated 5 May 2022 concluded that he had died from a gunshot wound to the head, which caused skull fractures and destroyed the brain tissue. The report did not exclude that the death had occurred at the time alleged by the applicant.

In the meantime, M. was identified as an active serviceman of the Russian army. On 22 March 2022 a notice of suspicion was issued against him. As his whereabouts remained unknown, the notice was transmitted to him and to his wife by email and via a messaging application. On 27 March 2022 he was declared a wanted person in Ukraine, and on 5 May 2022 he was placed on the international wanted list. On 16 May 2022 an investigating judge granted the investigator’s request to conduct the investigation *in absentia*. On 30 May 2022 an indictment was issued against him.

According to the first applicant, the proceedings were pending before a court as of August 2023.

(b) Rape

It appears from the case file that on 28 February 2022 a separate criminal investigation was opened under Article 438 of the Criminal Code. The first applicant was granted victim status in this investigation in which, in May 2023, D., another active serviceman of the Russian army, was identified as M.'s accomplice.

It further appears that on 6 May 2022 a third criminal investigation was opened under Article 438 of the Criminal Code into the first applicant's allegation of rape.

According to the first applicant, the investigation concerning D. was at the pre-trial stage as of August 2023.

(c) Destruction of property

On 23 August 2022 the first applicant filed a criminal complaint regarding the destruction of her house. As a result, a criminal investigation was opened on 26 September 2022. On the same date she was granted victim status, and a forensic construction examination was commissioned, as confirmed by a letter dated 29 September 2022.

According to the first applicant, the investigation was pending as of January 2023.

6. Complaints to the Russian authorities

On 18 August 2022 the first applicant submitted her allegations of killing and rape to the Investigative Committee of the Russian Federation. Having received no response, she filed a further complaint on 13 July 2023, again to no avail.

7. Lodging of the present application

On 17 January 2023 the first applicant lodged her application with the Court. On 16 August 2023 she submitted additional complaints, on her own behalf and on behalf of her son. In a letter dated 27 December 2023, she provided the missing information required for her son to be treated as the second applicant.

8. Complaint to the German authorities

The first applicant states that, in the meantime, in June 2023, she submitted her allegations to the German authorities, seeking an investigation under the principle of universal jurisdiction. According to her, in August 2023 a German prosecutor decided not to open a separate investigation but to join her complaint to an existing structural investigation.

B. COMPLAINTS AGAINST THE RUSSIAN FEDERATION

1. Complaints submitted on 17 January 2023

Relying on Article 2 of the Convention, the first applicant complains that the Russian Federation failed to conduct an effective investigation into her allegations of war crimes committed against her and her family.

Referring to Article 8 of the Convention, she complains that the Russian Federation was responsible for the destruction of her house which, she submits, held not only material value for her but also emotional significance, serving as a symbol of her family and preserving the memory of her late husband who had built it for them. She further submits that the constant shelling and widespread abuses by Russian forces posed a direct threat to her life, forcing her to flee her home. She claims that she is unable to return to her home due to its destruction, the ongoing war and the trauma she suffered.

Invoking Article 13 of the Convention, she complains that there were no effective remedies in the Russian Federation in respect of her complaints.

Lastly, relying on Article 1 of Protocol No. 1 to the Convention, she complains that the Russian Federation was responsible for the destruction of her house, together with all its contents.

2. Complaints submitted on 16 August 2023

Invoking Articles 2 and 14 of the Convention, the first applicant complains that the Russian Federation was responsible for the extrajudicial killing of her husband, which was allegedly motivated by discrimination on the ground of his national origin. She submits that he was targeted on account of his Ukrainian nationality and his suspected association with or support for the Ukrainian army.

Relying on Articles 3 and 14 of the Convention, she complains that:

(i) the rape, forced nudity, threats of physical violence and psychological abuse to which she was subjected constituted gender-based violence, gender-based discrimination, torture and conflict-related sexual violence, for which the Russian Federation was responsible;

(ii) the Russian Federation failed to carry out an effective investigation into the matter, thereby denying her equal protection before the law;

(iii) the discrimination to which she was subjected was intersectional in nature, as it was inflicted on account of both her sex and national origin;

(iv) the Russian Federation failed to establish an effective legal framework to investigate and prosecute rape as gender-based discrimination or conflict-related sexual violence; in particular, Russian law neither recognised a gender-based motive as an aggravating circumstance for sentencing nor criminalised rape as a war crime, but rather as cruel treatment of civilians.

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Referring to Article 3 of the Convention, the second applicant complains that he suffered psychological harm as a result of the events of 9 March 2022. In particular, he was four years old at the time; he was forced to hide from Russian soldiers, intimidated by their weapons; he heard gunshots and his mother's screams; and he witnessed her rape and saw his father's body.

Relying on Article 13 of the Convention, both applicants complain that there were no effective remedies in the Russian Federation in respect of their complaints.

Lastly, invoking Article 2 of Protocol No. 4 to the Convention, both applicants complain that they were denied the freedom to choose their residence in Ukraine. The constant shelling and the commission of grave crimes against them posed a direct threat to their lives, forcing them to flee their home and rendering them unable to return safely.

C. COMPLAINTS AGAINST UKRAINE

Relying on Articles 3 and 14 of the Convention, the first applicant complains that:

(i) the investigation conducted in Ukraine into her allegations of killing and rape was flawed, as demonstrated by a number of deficiencies in the investigation; and

(ii) Ukraine failed to establish an effective legal framework for the investigation and prosecution of rape as conflict-related sexual violence, gender-based discrimination or torture, thereby contributing to some of the deficiencies mentioned above.

Referring to Article 13 of the Convention, she complains that there were no effective remedies in Ukraine in respect of her complaints.

QUESTIONS TO ALL THREE PARTIES

1. Have the applicants complied with the admissibility requirements set forth in Article 35 § 1 of the Convention? In particular, have they complied with the time-limit laid down in that provision?

2. Have the applicants complied with their duty of diligence when raising their complaints before the relevant domestic authorities and the Court, taking into account the date when the Russian Federation ceased to be a Party to the Convention (see, *mutatis mutandis*, *Stanimirović v. Serbia*, no. 26088/06, §§ 30-31, 18 October 2011, and *Melnichuk and Others v. Romania*, nos. 35279/10 and 34782/10, §§ 80-83, 5 May 2015; see also, *mutatis*

mutandis, Chiragov and Others v. Armenia (dec.) [GC], no. 13216/05, §§ 140-41, 14 December 2011, and *Sargsyan v. Azerbaijan* (dec.) [GC], no. 40167/06, §§ 142-46, 14 December 2011)?

QUESTIONS TO THE APPLICANTS AND THE RUSSIAN GOVERNMENT

1. As regards the allegations relating to situations continuing beyond 16 September 2022, such as those concerning relocation and lack of effective investigations, can acts or omissions allegedly attributable to the Russian Federation after that date fall within the Court's temporal jurisdiction (see *Ukraine and the Netherlands v. Russia* [GC], nos. 8019/16 and 3 others, § 185, 9 July 2025)?

2. Has the right to life of the first applicant's husband, ensured by Article 2 of the Convention, been violated (see *Ukraine and the Netherlands v. Russia*, cited above, §§ 1038 and 1045)? Having regard to the procedural protection of the right to life (see *Salman v. Turkey* [GC], no. 21986/93, § 104, ECHR 2000-VII), has an effective investigation been carried out in respect of the first applicant's allegation of a violation of Article 2 of the Convention, as required by that provision?

Was the first applicant's husband subjected to discrimination on the ground of his national origin, contrary to Article 14 of the Convention, read in conjunction with Article 2 of the Convention (see *Ukraine and the Netherlands v. Russia*, cited above, §§ 1604-07)? If so, has such discrimination been properly investigated (see, *mutatis mutandis, Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, §§ 160-61, 6 July 2005)?

3. Having regard to the first applicant's allegation of rape and other forms of violence inflicted upon her, was she subjected to torture, in breach of Article 3 of the Convention (see *Ukraine and the Netherlands v. Russia*, cited above, §§ 1073-79)? Having regard to the procedural obligation under Article 3, has an effective investigation been carried out into her allegation of a violation of Article 3 of the Convention, as required by that provision (see *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, §§ 315-26, ECHR 2014 (extracts))?

Has the Russian Federation complied with its positive obligation inherent in Article 3 of the Convention to establish and apply in practice an adequate legal framework affording protection against rape (see, *mutatis mutandis*, *M.C. v. Bulgaria*, no. 39272/98, §§ 153-66, 4 December 2003, and *Volodina v. Russia*, no. 41261/17, §§ 76-85, 9 July 2019)?

Was the first applicant subjected to discrimination on grounds of her sex and national origin, contrary to Article 14 of the Convention, read in conjunction with Article 3 of the Convention, in respect of: (i) the alleged rape and other forms of violence inflicted upon her; (ii) the alleged failure to establish and apply in practice an adequate legal framework; and (iii) the alleged failure to conduct an effective investigation (see *Ukraine and the Netherlands v. Russia*, cited above, §§ 1604-07)?

4. Has the mental suffering endured by the second applicant in connection with the events of 9 March 2022 attained the minimum level of severity required to fall within the scope of Article 3 of the Convention (see, *mutatis mutandis*, *Ukraine and the Netherlands v. Russia*, cited above, § 540)?

5. Were the applicants subjected to inhuman treatment contrary to Article 3 of the Convention on account of their suffering due to Russian military attacks (see *Ukraine and the Netherlands v. Russia*, cited above, §§ 761-62)?

6. With regard to the first applicant's complaint concerning her relocation, has there been an interference with her right to respect for her private life and/or home, within the meaning of Article 8 § 1 of the Convention? If so, was that interference justified in terms of Article 8 § 2 of the Convention (see *Ukraine and the Netherlands v. Russia*, cited above, §§ 1171 and 1176-77; see also *Chiragov and Others v. Armenia* [GC], no. 13216/05, §§ 206-08, ECHR 2015).

Have the same facts also given rise to a violation of the applicants' right to liberty of movement, contrary to Article 2 of Protocol No. 4 to the Convention (see *Georgia v. Russia (II)* [GC] (merits), no. 38263/08, §§ 296-301, 21 January 2021)?

7. Has there been a breach of Article 8 of the Convention on account of the destruction of the first applicant's house (see *Ukraine and the Netherlands v. Russia*, cited above, §§ 1450-53)?

Have the same facts also given rise to a breach of Article 1 of Protocol No. 1 to the Convention in respect of the first applicant (see *Ukraine and the Netherlands*, cited above, §§ 769-72)?

8. Did the applicants have at their disposal an effective domestic remedy in respect of their complaints, as required by Article 13 of the Convention (see *Ukraine and the Netherlands v. Russia*, cited above, §§ 1617-22)?

QUESTIONS TO THE APPLICANTS AND THE UKRAINIAN GOVERNMENT

1. Having regard to the procedural protection of the right to life (see *Salman*, cited above, § 104), has an effective investigation been carried out in respect of the first applicant's allegation of a violation of Article 2 of the Convention, as required by that provision?

2. Having regard to the first applicant's allegation of a violation of Article 3 of the Convention, has Ukraine complied with its positive obligation inherent in that provision to establish and apply in practice an adequate legal framework affording protection against rape (see, *mutatis mutandis*, *M.C. v. Bulgaria*, no. 39272/98, §§ 153-66, 4 December 2003, and *Volodina v. Russia*, no. 41261/17, §§ 76-85, 9 July 2019)? Has this had any bearing on Ukraine's compliance with its procedural obligation under Article 3 (see *Mocanu and Others*, cited above, §§ 315-26)?

Was the first applicant subjected to discrimination, contrary to Article 14 of the Convention, read in conjunction with Article 3 of the Convention, on account of the alleged failure to establish and apply in practice an adequate legal framework and to conduct an effective investigation into her allegation of rape?

3. Did the first applicant have at her disposal an effective domestic remedy in respect of her complaints, as required by Article 13 of the Convention?

REQUEST FOR INFORMATION

The parties are invited to inform the Court of the current status and any updates concerning the domestic proceedings that were instituted, and to

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indicate whether the applicants have benefited from any compensatory measure. They are further requested to submit copies of all relevant documents relating to those proceedings. Lastly, the applicants are requested to provide evidence of their relocation abroad.